

§ 1381.2 Institution of proceedings.

Any handler desiring to complain that any order, Compact over-order price, or administrative assessment, or any provision of such order or assessment, or any obligation imposed in connection therewith is not in accordance with law shall file with the Commission a petition in writing, along with 5 copies of the same.

§ 1381.3 Contents of petition.

A petition shall contain:

(a) The correct name, address, and principal place of business of the petitioner. If petitioner is a corporation, such fact shall be stated, together with the name of the State of incorporation, the date of incorporation, and the names, addresses, and respective positions, held by its officers; if an unincorporated association, the names and addresses of its officers, and the respective positions held by them; if a partnership, the name and address of each partner.

(b) Reference to the specific terms or provisions of the regulation, order, or notice of administrative assessment, or the interpretation or application thereof, which are complained of.

(c) A full statement of the facts (avoiding a mere repetition of detailed evidence) upon which the petition is based, setting forth clearly and concisely the nature of the petitioner's business and the manner in which petitioner claims to be affected by the terms or provisions of the regulation, order or administrative assessment, or the interpretation or applications thereof, which are complained of.

(d) A statement of the grounds on which the terms or provisions of the regulation, order, or administrative assessment or the interpretation or application thereof, which are complained of are challenged as not being in accordance with law.

(e) Any prayer for specific relief which the petitioner desires the Commission to grant;

(f) An affidavit by the petitioner, or if the petitioner is not an individual by an officer of the petitioner having knowledge of the facts stated in the petition, verifying the petition and stating that it is filed in good faith and not for the purposes

of the delay. The affidavit may include a request for an oral hearing on the petition. Such request shall set forth specific grounds demonstrating the need for such a hearing.

(g) Any additional affidavit evidence supporting the petition.

(h) Petitioner's prayer for relief may include a request that payments due or payable during the pendency of the administrative appeal or longer pursuant to § 1381.5(b), be placed in an escrow account established by the Commission. If a request for escrow is made, petitioner may make payment into a Commission established escrow account while the Commission rules upon petitioner's request in accordance with § 1381.4(b)(5). Any petitioner who refuses to make payment during this period shall be liable for payment of interest on such withheld funds, at the federal statutory rate set forth in 28 U.S.C 1961, plus such additional penalties as are appropriate under Article VI, Section 17 of the Compact.

[62 FR 35065, June 30, 1997; 62 FR 36651, July 9, 1997]

§ 1381.4 Conduct of proceedings.

(a) *Appointment of Commission hearing panel.* Upon receipt of a petition, the Chair shall appoint from one to three Commission members who shall consider the petition. For panels greater than one member, the Chair shall designate a chief hearing officer. The Commission panel chosen by the Chair shall consist of Commission members who are not members of the state delegation in which the Handler is incorporated or has its principal place of business, who have no pecuniary interest in the outcome, and who are otherwise fair and impartial.

(b) *Preliminary matters.* The panel shall meet within 15 days of their appointment to determine whether to:

(i) Limit the taking of evidence to affidavits, and thereby make their decision solely on the basis of the record before them without an oral hearing. In making this determination, the panel shall consider:

(i) The nature of the petition before them;

(ii) The nature of any facts in dispute that may necessitate an oral hearing; and